

Exhibit 2
to
Mandhania Declaration

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08:50:59 1 12-12-2024, Thursday

09:04:03 2 VIDEOGRAPHER CASWELL: Rene Cabrera

09:08:17 3 Google.

09:08:18 4 ATTORNEY MANDHANIA:

09:08:38 5 ATTORNEY MAZZEO:

09:12:37 6 JUDGE HAKUN:

09:12:39 7 VIDEOGRAPHER CASWELL: We are now on the

09:12:40 8 recorded a contacts well retained by U.S. legal support

09:12:45 9 this is a live video deposition today's date is

09:12:49 10 December 12, 2024. The time is 9:11. This deposition

09:12:55 11 is being held at 2 80 King of Prussia Road in Radnor,

09:12:59 12 Pennsylvania in the matter of Rene Cabrera versus

09:13:06 13 Google LLC. The deponent is Doctor James L Gibson.

09:13:11 14 Counsel if you want to introduce yourself and who you

09:13:13 15 represent.

09:13:14 16 ATTORNEY MAZZEO: Good morning Margaret

09:13:16 17 mass yo from Kessler Topaz on behalf of the witness

09:13:19 18 Plaintiff's in the class.

09:13:21 19 ATTORNEY MUSTOKOFF: Matt Mustokoff

09:13:22 20 Kessler Topaz also on behalf of Plaintiff's.

09:13:25 21 ATTORNEY MANDHANIA: I'm Ankur Mandhanian

09:13:26 22 from Mayer Brown for Google.

09:13:29 23 ATTORNEY HUNT: Kaitlyn Hunt Mayer Brown

09:13:32 24 for Google.

09:13:33 25 ATTORNEY MANDHANIA: And I think we will

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09:13:34 1 take appearances from the folks appearing

09:13:36 2 telephonically.

09:13:39 3 ATTORNEY SILVERMAN: Kristin Silverman for

09:13:42 4 Mayer Brown.

09:13:42 5 ATTORNEY RONALDSON: Nicholas Ronaldson

09:13:43 6 for Mayer Brown also for Google.

09:13:47 7 VIDEOGRAPHER CASWELL: Is that everyone?

09:13:49 8 ATTORNEY MANDHANIA: It is.

09:13:51 9 VIDEOGRAPHER CASWELL: The witness will

09:13:52 10 now be sworn in.

09:14:06 11 - - -

09:14:06 12 CALLED AS A WITNESS IN THE FOLLOWING PROCEEDINGS,

09:14:06 13 HAVING FIRST BEEN DULY SWORN, TESTIFIED AND SAID AS

09:14:06 14 FOLLOWS:

09:14:07 15 - - -

09:14:07 16 VIDEOGRAPHER CASWELL: Proceed.

09:14:07 17 BY ATTORNEY MANDHANIA:

09:14:09 18 Q. Dr. Gibson, good morning.

09:14:10 19 A. Good morning.

10:44:52 16

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10:44:52 17

VIDEOGRAPHER CASWELL: We are back on

10:44:54 18

10:43.

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BY ATTORNEY MANDHANIA:

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Q. Dr. Gibson welcome back from the break.

10:45:02 21

A. Thank you.

10:45:02 22

Q. I think we got a little distracted earlier when I

10:45:06 23

was asking about the process that led you to

10:45:08 24

interviewing Mr. Taylor, so I want to just make sure we

10:45:12 25

have a clean record on this question. Did Dr.

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10:45:18 1

Sutherland recommend Mr. Taylor to you for purposes of

10:45:20 2

this matter?

10:45:30 3

A. I don't have a clear memory. I believe he did,

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but I don't have a clear memory of where Taylor's name

10:45:38 5

actually came from and whether it came from more than a

10:45:41 6

single person.

10:45:46 7

Q. And did Mr. Sutherland --- pardon me, did Dr.

10:45:53 8

Sutherland recommend Mr. Reynolds to you?

10:45:57 9

A. No.

10:45:57 10

Q. You mentioned as part of your interview with Mr.

10:46:00 11

Taylor you mentioned about his employment history,

10:46:03 12

right?

10:46:03 13 A. Yes.

10:46:11 14 Q. Why?

10:46:12 15 A. Because Mr. Sutherland was removed from this case
10:46:27 16 because of his employment history.

10:46:29 17 Q. When did you stop working --- that was --- strike
10:46:37 18 that. At some time did you learn that Dr. Sutherland
10:46:44 19 could no longer work on this matter?

10:46:46 20 ATTORNEY MAZZEO: Objection to form.

10:46:49 21 THE WITNESS: Yes.

10:46:49 22 BY ATTORNEY MANDHANIA:

10:46:53 23 Q. And on what date did you learn that Dr. Sutherland
10:46:55 24 could no longer work on this matter?

10:47:00 25 ATTORNEY MAZZEO: Objection to form.

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10:47:01 1 THE WITNESS: I can't remember the
10:47:02 2 specific day.

10:47:02 3 BY ATTORNEY MANDHANIA:

10:47:04 4 Q. Can you give me the month?

10:47:05 5 ATTORNEY MAZZEO: Objection.

10:47:07 6 THE WITNESS: February 2024.

10:47:07 7 BY ATTORNEY MANDHANIA:

10:47:15 8 Q. Before February 2024, did you know that a persons
10:47:22 9 employments history was relevant to whether they could

10:48:40 7 ask him those questions we talked about earlier
10:48:43 8 regarding availability, eligibility to serve, expertise
10:48:48 9 and costs?
10:48:49 10 A. March of 2024.
10:48:51 11 Q. And in what month did Mr. Taylor begin his work on
10:48:55 12 this matter?
10:49:00 13 A. I actually don't know, but after Google approved
10:49:03 14 him, so the end of March, the beginning of April
10:49:08 15 somewhere around in there. I don't actually know the
10:49:11 16 precise day.
10:49:13 17 Q. You issued some code in April and May 2024 in this
10:49:20 18 matter, right?
10:49:23 19 A. Yes.
10:49:23 20 Q. Did Mr. Taylor work on that code?
10:49:27 21 A. I don't believe he did.
10:49:29 22 Q. Did anyone other than yourself work on that code?
10:49:35 23 A. Maybe we ought to be clear about what that code
10:49:40 24 is? Can you give me the content or the context of the
10:49:43 25 code?

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10:49:44 1 Q. Sure.
10:49:45 2 A. I think I know but can you be clear.
10:49:47 3 Q. And why don't we do this have this whole

10:49:52 4 conversation have it a little bit more systematically.

10:49:55 5 A. Yeah.

10:49:56 6 Q. So you issued code in March 202424 on March 1,

10:50:08 7 2024?

10:50:08 8 ATTORNEY MAZZEO: Objection.

10:50:09 9 THE WITNESS: Yes.

10:50:10 10 ATTORNEY MAZZEO: Could you be more

10:50:11 11 specific by issued code.

10:50:11 12 BY ATTORNEY MANDHANIA:

10:50:15 13 Q. Sure and I will direct Dr. Gibson of paragraph 7

10:50:18 14 of Gibson 1. ?

10:50:27 15 A. I'm there.

10:50:27 16 Q. And this mystery changed history code to Google on

10:50:35 17 March 7th, right?

10:50:38 18 A. Yes.

10:50:38 19 Q. Who wrote that code?

10:50:39 20 A. I did.

10:50:39 21 Q. Are there any lines of that code written by

10:50:42 22 someone other than you?

10:50:47 23 A. Yes.

10:50:50 24 Q. Who wrote the lines other than you that are

10:50:53 25 contained in that code?

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10:50:56 1 A. Dr. Sutherland.

10:51:00 2 Q. Were there specific topics on which Dr. Sutherland
10:51:03 3 wrote lines of code?

10:51:04 4 ATTORNEY MAZZEO: Objection of form. I'm
10:51:06 5 going to advise you not to divulge the contents of any
10:51:11 6 specific communications you had with Dr. Sutherland
10:51:13 7 regarding the code.

10:51:14 8 ATTORNEY MANDHANIA: And I'm sorry what is
10:51:16 9 the basis of that objection.

10:51:18 10 ATTORNEY MAZZEO: The work product
10:51:20 11 privilege. If you want to ask him generally about how
10:51:23 12 he collaborated with Dr. Sutherland that is fine. But
10:51:26 13 in terms of specific lines of code I think that is
10:51:28 14 crossing the line.

10:51:30 15 ATTORNEY MANDHANIA: Counsel, you have
10:51:32 16 made --- or there have been representations to us that
10:51:34 17 Dr. Sutherland didn't write any code. I just heard
10:51:39 18 that he did. I think I'm entitled to probe the
10:51:43 19 discrepancy between the representation and I would say
10:51:46 20 your previous representation that Dr. Sutherland didn't
10:51:49 21 write code has waived work privilege over this matter.

10:51:52 22 ATTORNEY MAZZEO: I think you should ask
10:51:53 23 him more questions to clarify and make sure you guys
10:51:56 24 have the same understanding of what that means. Again,
10:51:58 25 if you want to ask him generally about his

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10:52:03 1 collaboration with Dr. Sutherland in writing the code
10:52:05 2 that is fine, but in terms of actual specifics of lines
10:52:11 3 of code that is protected.

10:52:11 4 BY ATTORNEY MANDHANIA:

10:52:14 5 Q. And I think what I've asked --- well, the question
10:52:17 6 pending, Dr. Gibson, is whether there are specific
10:52:21 7 topics on which Mr. Sutherland wrote lines of code?

10:52:34 8 A. Yes.

10:52:36 9 Q. And what are those topics?

10:52:40 10 ATTORNEY MAZZEO: Objection. Dr. Gibson,
10:52:43 11 I'm going to advise you not to answer that question?

10:52:47 12 THE WITNESS: On advice of counsel I can't
10:52:56 13 answer that question.

10:52:56 14 BY ATTORNEY MANDHANIA:

10:52:58 15 Q. Are there specific topics --- are there specific
10:53:01 16 topics that Dr. Sutherland wrote code on that wrote
10:53:06 17 lines of code on for the March 1 and March 7th code?

10:53:11 18 A. I think I already said yes.

10:53:13 19 Q. So there are certain topics where you wrote the
10:53:16 20 code and there are certain topics where Mr. Sutherland
10:53:19 21 wrote the code; is that right?

10:53:21 22 A. Almost all topics I wrote the code.

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12:43:01 1 in computer science, right?

12:43:06 2 ATTORNEY MAZZEO: Object to form.

12:43:06 3 THE WITNESS: Yes.

12:43:06 4 BY ATTORNEY MANDHANIA:

12:43:07 5 Q. And using Ed cases to verify code in cases, right?

12:43:20 6 ATTORNEY MAZZEO: Object to form.

12:43:21 7 THE WITNESS: Yes.

12:43:21 8 BY ATTORNEY MANDHANIA:

12:43:22 9 Q. We spoke a little bit earlier about Mr. Taylor who
12:43:28 10 is working with you on this case, right?

12:43:30 11 A. Yes.

12:43:30 12 Q. And I think you mentioned that at one point Mr.
12:43:33 13 Sutherland may have been involved in referring him to
12:43:35 14 you, you just weren't a 100 percent sure; is that
12:43:38 15 right?

12:43:38 16 A. I think that is a fair characterization, yes.

12:43:40 17 Q. Okay do you know whether Mr. Taylor and Doctor
12:43:47 18 Sutherland know each other?

12:43:50 19 ATTORNEY MAZZEO: Object to form.

12:43:51 20 THE WITNESS: I don't know actually.

12:43:51 21 BY ATTORNEY MANDHANIA:

12:43:53 22 Q. Are you instructed Mr. Taylor not to talk to Dr.
12:43:55 23 Sutherland about this case?

12:43:56 24 ATTORNEY MAZZEO: Object to form.

12:44:02 25 THE WITNESS: I have no recollection of

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12:44:03 1 having done so.

12:44:03 2 BY ATTORNEY MANDHANIA:

12:44:05 3 Q. Do you know whether anyone else has given Mr.
12:44:08 4 Taylor that instruction?

12:44:09 5 ATTORNEY MAZZEO: Object to form.

16:39:03 5 4:37.

16:39:03 6 BY ATTORNEY MANDHANIA:

16:39:08 7 Q. Dr. Gibson, one of the documents that you reviewed
16:39:11 8 in preparation for today was Google's subpoena from
16:39:16 9 2024, right?

16:39:18 10 A. Yes.

16:39:18 11 Q. When did you learn of that subpoena?

16:39:23 12 A. I'm sorry?

16:39:24 13 Q. When did you learn of that subpoena?

16:39:26 14 A. In the summer of 2024.

16:39:28 15 Q. And can you describe for me what you did once you
16:39:32 16 received it?

16:39:34 17 A. Yes.

16:39:38 18 ATTORNEY MUSTOKOFF: I'm just going to
16:39:40 19 caution the witness in answering this question not to
16:39:43 20 divulge the discussions that you had with counsel.

16:39:48 21 ATTORNEY MANDHANIA: Matt I've been kind
16:39:53 22 of letting it slide but the tag teaming has been a
16:39:56 23 little bit excessive.

16:39:58 24 ATTORNEY MAZZEO: I will lodge the same
16:39:59 25 objection.

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16:40:01 1 ATTORNEY MANDHANIA: Thank you.

16:40:01 2 ATTORNEY MAZZEO: I'm going to instruct the
16:40:02 3 witness not to divulge any communications that he had
16:40:07 4 with counsel in answering his question.

16:40:10 5 THE WITNESS: So I was asked to review my
16:40:14 6 e-mail and I did.

16:40:14 7 BY ATTORNEY MANDHANIA:

16:40:22 8 Q. Who asked you to review your e-mail?

16:40:26 9 ATTORNEY MUSTOKOFF: Objection.

16:40:26 10 ATTORNEY MAZZEO: Objection. I'm going to
16:40:29 11 instruct you not to answer.

16:40:29 12 BY ATTORNEY MANDHANIA:

16:40:31 13 Q. Counsel is a fine answer but if someone instructed
16:40:33 14 you I want to know who?

16:40:37 15 A. So I thought the subpoena. I don't have the
16:40:40 16 subpoena in my mind but I thought clearly in my mind,
16:40:44 17 but I thought the subpoena instructed me to.

16:40:50 18 Q. I see.

16:40:50 19 A. I maybe wrong about that.

16:40:52 20 ATTORNEY MANDHANIA: Why don't we put the
16:40:53 21 subpoena in front of you that might help?

16:40:56 22 THE WITNESS: Thank you.

16:40:56 23 ATTORNEY MANDHANIA: That is tab 19.

16:41:09 24 (Exhibit marked for identification.)

16:41:09 25 BY ATTORNEY MANDHANIA:

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16:49:12 9 BY ATTORNEY MANDHANIA:

16:49:15 10 Q. This matter?

16:49:15 11 A. I have.

16:49:16 12 Q. Have you preserved all of those e-mails?

16:49:19 13 A. I have.

16:49:20 14 Q. Are you aware, Dr. Gibson, that lawyers from

16:49:29 15 Kessler Topaz have respond --- have served on Google a

16:49:34 16 response on your behalf to the subpoena?

16:49:42 17 A. Is this the interrogatories that we talked about

16:49:44 18 earlier today?

16:49:45 19 Q. I'm talking about this document here, the Gibson

16:49:49 20 11 maybe it was, the subpoena that we are talking

16:49:53 21 about?

16:49:53 22 A. But you are talking about a response to this?

16:49:56 23 Q. Yes.

16:49:57 24 A. And is that the Interrogatory document that we

16:49:59 25 were talking about today?

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16:50:01 1 Q. I don't think it is to be honest. We have talked

16:50:05 2 about interrogatories a few times so I'm trying to

16:50:06 3 avoid getting confused about that.

16:50:11 4 A. I'm unsure. I don't know is the answer.

16:50:14 5 Q. Have you given counsel all information in your

16:50:20 6 possession that is responsive to the subpoena?

16:50:22 7 ATTORNEY MAZZEO: Objection to form. Dr.

16:50:26 8 Gibson I'm going to counsel you not to answer the

16:50:27 9 question to the extent that you need to reveal the

16:50:30 10 contents of the conversations that you had with

16:50:32 11 counsel.

16:50:35 12 THE WITNESS: Yes.

16:50:35 13 BY ATTORNEY MANDHANIA:

16:50:37 14 Q. Have you ever texted Dr. Sutherland?

16:50:44 15 A. Maybe.

16:50:45 16 Q. Have you ever texted him about this case?

16:50:48 17 A. No.

16:50:55 18 Q. How did you figure out what information was

16:50:57 19 responsive to the subpoena?

16:50:59 20 ATTORNEY MAZZEO: Dr. Gibson I'm going to

16:51:01 21 counsel you not to answer that question. That clearly

16:51:03 22 calls for privileged communications, Ankur, you can't

16:51:09 23 answer the question?

16:51:10 24 THE WITNESS: On the advice of counsel I

16:51:12 25 refuse to answer that question.

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16:51:12 1 BY ATTORNEY MANDHANIA:

16:51:20 2 Q. Outside of conversations you had with counsel do

17:03:30 7 ATTORNEY MAZZEO: Objection to form.

17:03:35 8 THE WITNESS: No.

17:03:35 9 BY ATTORNEY MANDHANIA:

17:03:36 10 Q. Then did you need assistance to conduct the
17:03:40 11 analysis?

17:03:40 12 ATTORNEY MAZZEO: Objection to form.

17:03:41 13 THE WITNESS: Much cheaper.

17:03:41 14 BY ATTORNEY MANDHANIA:

17:03:45 15 Q. Do you know what Dr. Sutherland's hourly rate was
17:03:52 16 on this matter?

17:03:53 17 A. In 2017/2018, I do not. I'm sure it was less than
17:03:58 18 mine.

17:04:01 19 Q. Do you know whether Dr. Sutherland has ever used
17:04:03 20 you as a reference for any job applications?

17:04:05 21 ATTORNEY MAZZEO: Objection to form.

17:04:07 22 THE WITNESS: I do not know.

17:04:07 23 BY ATTORNEY MANDHANIA:

17:04:11 24 Q. You are aware now, Dr. Gibson, that Dr. Sutherland
17:04:16 25 has worked at Amazon for a period of time, right?

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17:04:20 1 ATTORNEY MAZZEO: Objection to form.

17:04:21 2 THE WITNESS: Yes.

17:04:21 3 BY ATTORNEY MANDHANIA:

17:04:22 4 Q. When did you learn that?

17:04:25 5 A. In February of 2024.

17:04:30 6 Q. And what did you do once you learned that?

17:04:35 7 ATTORNEY MAZZEO: Objection to form.

17:04:39 8 THE WITNESS: Nothing. I couldn't ---

17:04:45 9 nothing.

17:04:45 10 BY ATTORNEY MANDHANIA:

17:04:48 11 Q. We discussed earlier Dr. Sutherland's

17:04:55 12 participation in your March code, right?

17:05:00 13 A. Yes.

17:05:00 14 Q. Did any of Dr. Sutherland's participation occur

17:05:05 15 after you knew he was a former Amazon employee?

17:05:11 16 ATTORNEY MAZZEO: Objection.

17:05:12 17 THE WITNESS: Yes.

17:05:12 18 BY ATTORNEY MANDHANIA:

17:05:19 19 Q. Have you been instructed not to communicate with

17:05:21 20 Dr. Sutherland about this case?

17:05:22 21 ATTORNEY MAZZEO: Objection to form. Dr.

17:05:23 22 Gibson, I'm going to instruct you not to answer that

17:05:25 23 question to the extent it is going to reveal any

17:05:27 24 communications that you had with counsel.

17:05:29 25 THE WITNESS: On advice of counsel I

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17:10:19 20 BY ATTORNEY MANDHANIA:

17:10:28 21 Q. And you also handed information on a flash drive

17:10:33 22 to another person who assisted you on this matter

17:10:37 23 Christian Baehr, right?

17:10:41 24 ATTORNEY MAZZEO: Objection to form.

17:10:42 25 THE WITNESS: Yes.

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17:10:42 1 BY ATTORNEY MANDHANIA:

17:10:43 2 Q. Is it a usual practice for you Dr. Gibson to

17:10:46 3 transfer information to a physical median like a

17:10:49 4 physical flash drive or a hard drive?

17:10:56 5 A. To transmit information through a hard drive or a

17:11:00 6 flash drive yes.

17:11:11 7 Q. Is it likely that you would have given Dr.

17:11:14 8 Sutherland ---

17:11:14 9 ATTORNEY MAZZEO: Objection to form.

17:11:14 10 BY ATTORNEY MANDHANIA:

17:11:17 11 Q. Other physical information in physical form?

17:11:20 12 ATTORNEY MAZZEO: Objection vague,

17:11:21 13 relevance, speculation.

17:11:25 14 THE WITNESS: I'm trying to imagine what

17:11:27 15 other information I should be thinking about. I don't

17:11:34 16 think I did, but I also think you are asking me about

17:11:41 17 2018 which is 6 or more years ago.

17:11:47 18 ATTORNEY MAZZEO: Ankur, if you could

17:11:51 19 clarify the time period that you are referring to in

17:11:55 20 your questions I think that would help.

17:11:55 21 BY ATTORNEY MANDHANIA:

17:11:57 22 Q. These questions are at anytime since Dr.

17:12:00 23 Sutherland began working for you in this matter, Dr.

17:12:03 24 Gibson, so 2017 onwards?

17:12:07 25 A. Would you repeat the question please.

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17:12:08 1 Q. Sure. Is it --- so we talked about the fact that

17:12:13 2 you gave Dr. Sutherland a physical hard drive

17:12:16 3 containing tables 1 and 2, right?

17:12:19 4 A. Yes.

17:12:19 5 Q. Do you know of other information you would have

17:12:25 6 handed Dr. Sutherland physically?

17:12:28 7 ATTORNEY MAZZEO: Objection calls for

17:12:29 8 speculation?

17:12:30 9 THE WITNESS: No.

17:12:30 10 BY ATTORNEY MANDHANIA:

17:12:35 11 Q. Do you know where that hard drive that you handed

17:12:37 12 Dr. Sutherland is?

17:12:38 13 ATTORNEY MAZZEO: Objection calls for

17:12:39 14 speculation.

17:12:41 15 THE WITNESS: I'm afraid I don't.

17:12:41 16 BY ATTORNEY MANDHANIA:

17:12:44 17 Q. Do you know whether Dr. Sutherland still has that
17:12:47 18 hard drive?

17:12:47 19 ATTORNEY MAZZEO: Objection, calls for
17:12:48 20 speculation.

17:12:57 21 THE WITNESS: I have a vague recollection
17:12:58 22 that it was returned to Google.

17:12:58 23 BY ATTORNEY MANDHANIA:

17:13:04 24 Q. When do you recall that data having been returned
17:13:08 25 to Google?

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17:13:12 1 A. Sometime in 2018, but I maybe wrong about that.

17:13:19 2 Q. Did you participate in the return of that to
17:13:29 3 Google?

17:13:29 4 ATTORNEY MAZZEO: Objection to form.

17:13:30 5 THE WITNESS: I don't recall.

17:13:30 6 BY ATTORNEY MANDHANIA:

17:13:32 7 Q. When did you first meet Christian Baehr?

17:13:37 8 A. I don't know.

17:13:38 9 Q. Can you estimate the year for me that you first
17:13:41 10 met Christian Baehr?

17:22:36 15 BY ATTORNEY MANDHANIA:

17:22:37 16 Q. The Court protected order contains a number of
17:22:42 17 conditions and requirements that your ad hoc agreement
17:22:45 18 does not include, right?

17:22:48 19 ATTORNEY MAZZEO: Objection to form.

17:22:50 20 THE WITNESS: I have not reviewed the
17:22:55 21 Protective Order from that process but it must.

17:22:55 22 BY ATTORNEY MANDHANIA:

17:22:58 23 Q. Did you look at the Protective Order when you were
17:23:00 24 drafting your ad hoc agreement with Mr. Baehr?

17:23:06 25 ATTORNEY MAZZEO: Objection to form.

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17:23:12 1 THE WITNESS: I don't believe I did.

17:23:12 2 BY ATTORNEY MANDHANIA:

17:23:13 3 Q. When was the last time you looked at the
17:23:15 4 Protective Order in this case?

17:23:22 5 A. Roughly August or September of this year.

17:23:32 6 Q. You gave before Baehr some click data that Google
17:23:36 7 has produced in this case, right?

17:23:38 8 ATTORNEY MAZZEO: Objection to form.

17:23:39 9 THE WITNESS: No.

17:23:39 10 BY ATTORNEY MANDHANIA:

17:23:43 11 Q. What data or information from Google have you

17:23:46 12 given to Mr. Baehr in connection with this matter?

17:23:51 13 A. I gave him photographs that I took.

17:23:54 14 Q. And these are the photographs that you took during
17:23:58 15 one of the source code inspections; is that right?

17:24:01 16 A. That's correct.

17:24:01 17 Q. And you put those photos on a flash drive that you
17:24:08 18 gave to Mr. Baehr, right?

17:24:10 19 A. Yes.

17:24:11 20 Q. Do you know whether Mr. Baehr made any copies of
17:24:17 21 those photos?

17:24:18 22 ATTORNEY MAZZEO: Objection to form. Calls
17:24:19 23 for speculation.

17:24:20 24 THE WITNESS: I don't know.

17:24:20 25 BY ATTORNEY MANDHANIA:

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17:24:27 1 Q. Does Mr. Baehr have any background in coding?

17:24:29 2 ATTORNEY MAZZEO: Objection to form.

17:24:33 3 THE WITNESS: I don't actually know. Did
17:24:36 4 he at the time is the question. I don't actually know.

17:24:36 5 BY ATTORNEY MANDHANIA:

17:24:42 6 Q. So when you handed him the flash drive with those
17:24:45 7 pictures you took, did you know whether Mr. Baehr would
17:24:48 8 understand the contents of those photographs?

17:32:45 22 ATTORNEY MUSTOKOFF: Can we go off the
17:32:46 23 record for a second sorry.
17:32:48 24 VIDEOGRAPHER CASWELL: Going off the
17:32:50 25 record the time is 5:31.

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17:44:28 1 - - -
17:44:28 2 (WHEREUPON, A BREAK WAS TAKEN.)
17:44:30 3 - - -
17:44:30 4 VIDEOGRAPHER CASWELL: Back on 5:43.
17:44:30 5 BY ATTORNEY MANDHANIA:
17:44:39 6 Q. Dr. Gibson, did you tell anyone that you were
17:44:51 7 going to take pictures during the source code
17:44:53 8 inspection?
17:44:53 9 ATTORNEY MAZZEO: Objection to form.
17:44:55 10 THE WITNESS: No.
17:44:55 11 BY ATTORNEY MANDHANIA:
17:45:02 12 Q. Did you know that Plaintiff's Counsel had
17:45:03 13 requested permission for you to take notes on your
17:45:05 14 computer during that inspection?
17:45:09 15 A. I do not. This is 6 and a half years ago. I
17:45:13 16 don't know, I don't remember.
17:45:17 17 ATTORNEY MANDHANIA: Let's take a look at
17:45:18 18 tab 24.

17:48:57 10 A. Yes.

17:48:58 11 Q. And then the next day you did in fact in expect

17:49:06 12 Google source code, right?

17:49:07 13 A. Yes.

17:49:08 14 Q. And that is the inspection at which you took the

17:49:13 15 pictures, right?

17:49:14 16 A. Yes.

17:49:15 17 Q. Was Mr. Saidel in the room when you took those

17:49:20 18 pictures?

17:49:22 19 A. No.

17:49:24 20 Q. Who was in the room with you when you took those

17:49:26 21 pictures, if anyone?

17:49:30 22 A. I don't have a clear recollection, but surely no

17:49:42 23 one.

17:49:42 24 Q. Why surely?

17:49:43 25 A. Because I was working alone all day long.

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17:49:45 1 Q. Was Mr. Saidel in the room while you used your

17:49:49 2 voice recorder to dictate notes?

17:49:52 3 A. No, I was working alone all day long.

17:49:59 4 Q. Dr. Gibson, have you violated the Protective Order

17:50:02 5 in this case?

17:50:03 6 ATTORNEY MAZZEO: Objection to form, calls

17:50:05 7 for a legal conclusion.

17:50:09 8 THE WITNESS: I believe that there are

17:50:12 9 allegations that I did and as I sit here today I

17:50:18 10 believe that I did.

17:50:18 11 BY ATTORNEY MANDHANIA:

17:50:21 12 Q. When did you first form the belief that you had

17:50:25 13 violated the Protective Order?

17:50:27 14 ATTORNEY MAZZEO: Objection form.

17:50:35 15 THE WITNESS: This summer, I think.

17:50:35 16 BY ATTORNEY MANDHANIA:

17:50:39 17 Q. How many times have you violated the Protective

17:50:42 18 Order?

17:50:42 19 ATTORNEY MAZZEO: Objection to form. Calls

17:50:43 20 for a legal conclusion.

17:50:47 21 THE WITNESS: Once.

17:50:47 22 BY ATTORNEY MANDHANIA:

17:50:48 23 Q. And what is that time?

17:50:52 24 A. The incident that we have been talking about in

17:50:55 25 2018.

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17:50:57 1 Q. And which incident is that, Dr. Gibson?

17:51:04 2 A. The recruitment of Mr. Baehr to help on processing

17:51:08 3 the information.

17:54:18 23 A. Besides Amazon so Google.

17:54:22 24 Q. You have backed up photos on Google photos?

17:54:25 25 A. Yes.

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17:54:25 1 Q. When did you start using Google photos to back up

17:54:28 2 photos?

17:54:28 3 A. I don't have any idea. I think it is automatic

17:54:32 4 --- it automatically comes on your computer.

17:54:34 5 Q. And do you know whether you were using Google

17:54:37 6 photos to back up photos from your phone in 2018?

17:54:43 7 A. I do not.

17:54:44 8 Q. Have you checked your Google photos archive to see

17:54:48 9 whether these photos appear there?

17:54:50 10 A. Yes.

17:54:50 11 Q. And do these photos appear there?

17:54:54 12 A. They do not.

17:54:54 13 Q. Other than the photos we have been discussing,

17:55:00 14 have you ever had in your possession any other photos

17:55:02 15 of Google source code?

17:55:05 16 A. No.

17:55:06 17 Q. Now, you received an electronic copy of Google's

17:55:15 18 source code in 2018, right?

17:55:20 19 A. Yes.

17:55:22 20 Q. Did you request that copy?

17:55:25 21 ATTORNEY MAZZEO: Objection to form.

17:55:27 22 THE WITNESS: This is 6 and a half years

17:55:30 23 ago. I don't have any idea if I did or did not.

17:55:30 24 BY ATTORNEY MANDHANIA:

17:55:36 25 Q. Who sent you the copy?

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17:55:38 1 A. Matt Mustokoff.

17:55:39 2 Q. Who made the copy?

17:55:43 3 A. I don't know.

17:55:44 4 Q. Did you know at the time you received there source

17:55:53 5 code copy that you were not allowed to have it?

17:55:56 6 ATTORNEY MAZZEO: Objection to the form.

17:55:57 7 THE WITNESS: That I wasn't allowed to

17:55:58 8 have it? No, I did not know that.

17:55:58 9 BY ATTORNEY MANDHANIA:

17:56:02 10 Q. Did the copy of the source code that you received

17:56:04 11 have a do not scan legend on every page?

17:56:08 12 ATTORNEY MAZZEO: Objection to form.

17:56:09 13 THE WITNESS: I have no idea.

17:56:09 14 BY ATTORNEY MANDHANIA:

17:56:10 15 Q. Did it include a cover page for paid making

17:56:17 16 electronic copies?

17:56:19 17 ATTORNEY MAZZEO: Objection to form.

17:56:21 18 THE WITNESS: I have no idea.

17:56:21 19 BY ATTORNEY MANDHANIA:

17:56:22 20 Q. Do you still have a copy of Google electronic
17:56:30 21 source code?

17:56:30 22 ATTORNEY MAZZEO: Objection to form.

17:56:33 23 THE WITNESS: Yes I believe so.

17:56:33 24 BY ATTORNEY MANDHANIA:

17:56:34 25 Q. Where is it?

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17:56:35 1 A. On a hard drive.

17:56:36 2 Q. Is that the same hard drive on which those photos
17:56:38 3 are stored?

17:56:38 4 A. Yes.

17:56:41 5 Q. And where is that hard drive located?

17:56:42 6 A. In Miami.

17:56:44 7 Q. Who has access to that hard drive, other than
17:56:46 8 yourself?

17:56:47 9 A. No one.

17:56:48 10 Q. Is that hard drive encrypted in any way?

17:56:51 11 A. No.

17:56:51 12 Q. Is it password protected?

17:56:53 13 A. No. It is an external hard drive.